

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

MASTER DOCKET

18-md-02865-LAK

This document relates to: The cases identified in
Appendix A

DECLARATION OF THOMAS E.L. DEWEY

I, Thomas E.L. Dewey, an attorney duly admitted to practice law before the courts of the State of New York, hereby declare under penalty of perjury:

1. I am a member of the law firm Dewey Pegno & Kramarsky LLP, counsel for Michael Ben-Jacob. I am fully familiar with the matters set forth in this declaration.
2. I submit this declaration in support of Defendants' Amended Memorandum of Law in support of their Motion for Issuance of a Request for International Judicial Assistance to Obtain Evidence in Denmark (the "Motion").
3. On March 28, 2024, Elliot Peters, a member of the law firm Keker, Van Nest & Peters LLP and also counsel for Michael Ben-Jacob, sent an email to SKAT's counsel at Hughes Hubbard & Reed LLP, requesting SKAT's position on, among other things, whether SKAT would stipulate to a motion to take Sanjay Shah's testimony under the Hague Convention.
4. On April 10, 2024, SKAT's counsel responded with SKAT's position as to other matters addressed in Mr. Peters's email but did not provide SKAT's position as to a motion to

take Sanjay Shah's testimony under the Hague Convention. That same day, Mr. Peters responded to inquire again as to SKAT's position on a motion for Sanjay's Shah's testimony.

5. On April 12, 2024, SKAT's counsel requested a draft of Defendants' Hague Convention motion papers, which Defendants provided on April 17, 2024. On April 18, 2024, SKAT's counsel informed Defendants that SKAT intended to join the motion, provided that such motion would not affect the timing of the trial set to commence on January 7, 2024.

6. Attached hereto as Exhibit 1 is an amended proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

7. Attached hereto as Exhibit 2 is a list of parties to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, as found on the website for the Treaty Database of the Kingdom of Netherlands' Division of the Ministry of Foreign Affairs, available at <https://treatydatabase.overheid.nl/en/Treaty/Details/002883>.

8. Attached hereto as Exhibit 3 is a news article by David Segal, dated December 6, 2023, and titled *Hedge Fund Trader, Accused of Fraud, is Extradited to Denmark*, available at: <https://www.nytimes.com/2023/12/06/business/sanjay-shah-fraud-extradition-denmark.html>.

9. Attached hereto as Exhibit 4 is a news article by Isabelle YR Carlsson and Jacob Gronholt-pedersen, dated March 21, 2024, and titled *Danish Tax Fraud Suspect Tells Court He Used Legal Loophole*, available at <https://www.reuters.com/world/europe/danish-tax-fraud-suspect-tells-court-he-used-legal-loophole-2024-03-21/>.

10. Attached hereto as Exhibit 5 is the Complaint filed by Plaintiff Skatteforvaltningen ("SKAT") in *Skatteforvaltningen v. Michael Ben-Jacob*, No. 1:21-cv-05339 on June 16, 2021, ECF 1.

11. Attached hereto as Exhibit 6 are excerpts from the deposition transcript of Richard Markowitz.

12. Attached hereto as Exhibit 7 are excerpts from the deposition transcript of Robert Klugman.

13. Attached hereto as Exhibit 8 are excerpts from the deposition transcript of John van Merkensteijn

14. Attached hereto as Exhibit 9 is a document produced in discovery in this matter, Bates-stamped FWCCAP00000156, and previously filed as Exhibit 179 to the Declaration of Marc A. Weinstein in Support of Plaintiff SKAT's Motion for Summary Judgment, ECF 824-296.

15. Attached hereto as Exhibit 10 is a document produced in discovery in this matter, Bates-stamped GUNDERSON 00009434, and previously filed as Exhibit 182 to the Declaration of Marc A. Weinstein in Support of Plaintiff SKAT's Motion for Summary Judgment, ECF 824-299.

16. Attached hereto as Exhibit 11 is a document produced in discovery in this matter, Bates-stamped WH_MDL_00041680, and previously filed as Exhibit 180 to the Declaration of Marc A. Weinstein in Support of Plaintiff SKAT's Motion for Summary Judgment, ECF 824-297.

17. Attached hereto as Exhibit 12 is a news article, dated March 20, 2024, titled *Shah skubber ansvar for centrale vurderinger fra sig* [*Shah pushes away responsibility for key assessments*], available at: <https://www.bt.dk/krimi/shah-skubber-ansvar-for-centrale-vurderinger-fra-sig>.

18. Attached hereto as Exhibit 13 is an English translation of Exhibit 12, which was generated using the Microsoft Translator tool.

19. Attached hereto as Exhibit 14 is a transcript of the March 28, 2024 scheduling conference before this Court.

20. Attached hereto as Exhibit 15 are the initial disclosures submitted to SKAT, pursuant to Federal Rule of Civil Procedure 26(a)(1), by Defendants Richard Markowitz, Jocelyn Markowitz, Avanix Management LLC Roth 401(K) Plan, Batavia Capital Pension Plan, Calypso Investments Pension Plan, Cavus Systems LLC Roth 401(K) Plan, Hadron Industries LLC Roth 401(K) Plan, RJM Capital Pension Plan, and Routt Capital Pension Plan, dated June 12, 2019.

21. Attached hereto as Exhibit 16 are the initial disclosures submitted to SKAT, pursuant to Federal Rule of Civil Procedure 26(a)(1), by Defendants John van Merkensteijn, Elizabeth van Merkensteijn, Azalea Pension Plan, Basalt Ventures LLC Roth 401(k) Plan, Bernina Pension Plan, Omineca Pension Plan, Starfish Capital Management LLC Roth 401(k) Plan, Tarvos Pension Plan, and Voojoo Productions LLC Roth 401(k) Plan, dated June 12, 2019.

22. Attached hereto as Exhibit 17 is a redline of the Amended Memorandum of Law in Support of the Motion against the original Memorandum of Law filed in support of the Motion on April 19, 2024 (ECF No. 980).

23. Attached hereto as Exhibit 18 is a redline of this Declaration against the original Declaration of Thomas E.L. Dewey in support of the Motion, dated April 19, 2024 (ECF No. 981).

24. Attached hereto as Exhibit 19 is a redline of the amended proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (Exhibit 1 to this

Declaration) against the original Letter of Request filed as Exhibit 1 to the Declaration of Thomas E.L. Dewey dated April 19, 2024 (ECF No. 981.1).

I, Thomas E.L. Dewey, declare under penalty of perjury that the foregoing is true and correct.

Dated: May 1, 2024
New York, NY

/s/Thomas E.L. Dewey
Thomas E.L. Dewey

APPENDIX A

Defendants	Counsel	Associated Case(s)
John van Merkensteijn, III	Sharon L. McCarthy Caroline Ciraolo Nicholas S. Bahnsen Kostelanetz & Fink LLP 7 World Trade Center, 34 th Floor New York, New York 10007 Tel: (212) 808-8100 Fax: (212) 808-8108 cciraolo@kflaw.com smccarthy@kflaw.com nbahnsen@kflaw.com	18-cv-04833 19-cv-01788 19-cv-01794 19-cv-01798 19-cv-01800 19-cv-01801 19-cv-01803 19-cv-01809 19-cv-01810 19-cv-01813 19-cv-01818 19-cv-01865 19-cv-01866 19-cv-01871 19-cv-01873 19-cv-01893 19-cv-01894 19-cv-01906 19-cv-01911 19-cv-01918 19-cv-01924 19-cv-01928 19-cv-01930 19-cv-01931 19-cv-10713
Elizabeth van Merkensteijn		
Azalea Pension Plan		
Basalt Ventures LLC Roth 401(K) Plan		
Bernina Pension Plan		
Bernina Pension Plan Trust		
Michelle Investments Pension Plan		
Omineca Pension Plan		
Omineca Trust		

<p>Remece Investments LLC Pension Plan</p> <p>Starfish Capital Management LLC Roth 401(K) Plan</p> <p>Tarvos Pension Plan</p> <p>Voojo Productions LLC Roth 401(K) Plan</p> <p>Xiphias LLC Pension Plan</p>		
<p>Richard Markowitz</p> <p>Jocelyn Markowitz</p> <p>Avanix Management LLC Roth 401(K) Plan</p> <p>Batavia Capital Pension Plan</p>	<p>Alan E. Schoenfeld Wilmer Cutler Pickering Hale and Dorr LLP 7 World Trade Center 250 Greenwich Street New York, NY 10007 Telephone: (212) 230-8800 alan.schoenfeld@wilmerhale.com</p>	<p>18-cv-04833</p> <p>19-cv-01781</p> <p>19-cv-01783</p> <p>19-cv-01785</p> <p>19-cv-01791</p> <p>19-cv-01792</p> <p>19-cv-01806</p> <p>19-cv-01808</p> <p>19-cv-01812</p> <p>19-cv-01815</p> <p>19-cv-01867</p> <p>19-cv-01868</p> <p>19-cv-01869</p> <p>19-cv-01870</p> <p>19-cv-01895</p> <p>19-cv-01896</p> <p>19-cv-01898</p> <p>19-cv-01904</p> <p>19-cv-01906</p> <p>19-cv-01911</p> <p>19-cv-01922</p> <p>19-cv-01924</p> <p>19-cv-01926</p> <p>19-cv-01929</p>

<p>Calypso Investments Pension Plan</p> <p>Cavus Systems LLC Roth 401(K) Plan</p> <p>Hadron Industries LLC Roth 401(K) Plan</p> <p>RJM Capital Pension Plan</p> <p>RJM Capital Pension Plan Trust</p> <p>Routt Capital Pension Plan</p> <p>Routt Capital Trust</p>		19-cv-10713
<p>Robert Klugman</p> <p>RAK Investment Trust</p> <p>Aerovane Logistics LLC Roth 401(K) Plan</p> <p>Edgepoint Capital LLC Roth 401(K) Plan</p> <p>Headsail Manufacturing LLC Roth 401(K) Plan</p> <p>The Random Holdings 401(K) Plan</p> <p>The Stor Capital Consulting LLC 401(K) Plan</p>	<p>David L. Goldberg</p> <p>Michael M. Rosensaft</p> <p>Zhanna A. Ziering</p> <p>Katten Munchin Rosenman LLP</p> <p>50 Rockefeller Plaza</p> <p>New York, NY 10020</p> <p>Tel.: (212) 940-8800</p> <p>Fax: (212) 940-8776</p> <p>david.goldberg@katten.com</p>	<p>18-cv-04434</p> <p>18-cv-07824</p> <p>18-cv-07827</p> <p>18-cv-07828</p> <p>18-cv-07829</p> <p>19-cv-01781</p> <p>19-cv-01783</p> <p>19-cv-01785</p> <p>19-cv-01788</p> <p>19-cv-01791</p> <p>19-cv-01792</p> <p>19-cv-01794</p> <p>19-cv-01798</p> <p>19-cv-01800</p> <p>19-cv-01801</p> <p>19-cv-01803</p> <p>19-cv-01806</p> <p>19-cv-01808</p> <p>19-cv-01809</p> <p>19-cv-01810</p> <p>19-cv-01812</p> <p>19-cv-01813</p> <p>19-cv-01815</p> <p>19-cv-01818</p> <p>19-cv-01870</p> <p>19-cv-01918</p> <p>19-cv-01922</p> <p>19-cv-01926</p>

		19-cv-01928 19-cv-01929 19-cv-01931
Michael Ben-Jacob	<p>Thomas E. L. Dewey Dewey Pegno & Kramarsky LLP 777 Third Avenue – 29th Floor New York, New York 10017 Tel.: (212) 943-9000 Fax: (212) 943-4325 tdewey@dpklaw.com</p> <p>Elliot R. Peters Julia L. Allen Keker, Van Nest & Peters LLP 633 Battery Street San Francisco, CA 94111 Tel.: (415) 962-7188 epeters@keker.com</p>	<p>18-cv-04434 18-cv-07824 18-cv-07827 18-cv-07828 18-cv-07829 19-cv-01781 19-cv-01783 19-cv-01785 19-cv-01788 19-cv-01791 19-cv-01792 19-cv-01794 19-cv-01798 19-cv-01800 19-cv-01801 19-cv-01803 19-cv-01806 19-cv-01808 19-cv-01809 19-cv-01810 19-cv-01812 19-cv-01813 19-cv-01815 19-cv-01818 19-cv-01866 19-cv-01867 19-cv-01868 19-cv-01869 19-cv-01870 19-cv-01871 19-cv-01873 19-cv-01894 19-cv-01896 19-cv-01918 19-cv-01922 19-cv-01926 19-cv-01928 19-cv-01929 19-cv-01931 21-cv-05339</p>